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CLERK

JGK 11/30/2017
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Glynice Simmons,	.	Docket #CV-14-3884 (AMD) (ARL)
	.	
Plaintiff,	.	
	.	United States Courthouse
V.	.	Central Islip, New York
	.	November 30, 2017
County of Suffolk, New York,	.	4:09 p.m.
et al.,	.	
	.	
Defendants.	.	
.....	.	

TRANSCRIPT OF SETTLEMENT CONFERENCE
BEFORE THE HONORABLE ARLENE R. LINDSAY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For The Plaintiff:	Brett H. Klein, Esq. Brett H. Klein, Esq., PLLC 305 Broadway-Ste. 600 New York, NY 10007
	Eric J. Hecker, Esq. Cuti Hecker Wang, LLP 305 Broadway-Ste. 607 New York, NY 10007
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1 THE CLERK: Calling 2014-civil-3884, Simmons v.
2 County of Suffolk, et al. State your appearances.

3 MR. KLEIN: Brett Klein for the plaintiff, Glynice
4 Simmons who is here to my right, and co-counsel, Eric Hecker.

5 THE COURT: All right. And for the defendant?

6 MS. BIZZARRO: Lynne Bizzarro, Chief Deputy County
7 Attorney for Suffolk County.

8 MS. ZWILLING: Assistant County Attorney, Arlene
9 Zwilling.

10 THE COURT: All right. And so, we've been here for
11 now several hours negotiating over a possible settlement of
12 the case and I'm advised by counsel that a settlement in
13 principle has been achieved, and I'll ask either Mr. Klein or
14 Mr. Hecker to put the number on -- you know, on record and
15 give me an outline of the terms.

16 MR. KLEIN: Sure. Judge, it's our -- there's been
17 an agreement to a total settlement amount of \$1,850,000
18 payable to Glynice Simmons as the Administrator of the Estate
19 of Dainell Simmons, in satisfaction of all claims that were or
20 could have been alleged in this case.

21 THE COURT: All right. And I understand the county
22 has to place on the record that -- subject to the approval of
23 the legislature, so please do that.

24 MS. ZWILLING: Yes, Judge. The amount agreed on,
25 1.85 million is -- we do want reflected --

1 THE COURT: No, it's 1.850,000, not 1.85 million.

2 MS. ZWILLING: No -- 1.85, yes. Okay, \$1,850,000,
3 yes --

4 THE COURT: Okay.

5 MS. ZWILLING: -- is inclusive of all attorney's
6 fees -- costs and disbursements. The plaintiff agrees that
7 they will execute the necessary general release, stipulation,
8 and if required, a (indiscern.) order. The settlement will be
9 presented for the first step in the required legislative
10 approval, which will be the presentation to the Ways and Means
11 Committee in 2018.

12 THE COURT: Okay. All right. So, I want to -- I
13 want to say, first of all, I thank all counsel who have worked
14 very, very hard to achieve this settlement. Is there
15 something else?

16 MS. ZWILLING: Yes --

17 THE COURT: Okay.

18 MS. ZWILLING: -- I just also wanted to follow that
19 up with, if upon approval by the Ways and Means Committee, if
20 that happens as expected, it will be presented to the full
21 Legislature (indiscern.).

22 THE COURT: Okay.

23 MS. ZWILLING: And the settlement is subject, under
24 the General Municipal Law (phonetic) and full Legislative
25 review.

1 THE COURT: Right. That is normal approval process.

2 MR. KLEIN: And Judge, if I may? Just, that is our
3 understanding that they would under take -- initiate the
4 process as early in 2018 as practicable.

5 THE COURT: Okay.

6 MS. ZWILLING: Yes.

7 THE COURT: Is that agreed upon?

8 MR. KLEIN: And I think on behalf of all of us, we
9 want to thank you for your assistance and --

10 THE COURT: Well, you worked very very hard at this
11 and it's a -- it's a good settlement. It's a very good
12 settlement and I think that it's -- it's one that will fairly
13 compensate the family for what occurred here.

14 Mrs. Simmons, I want to address you, specifically as the
15 administrator of the estate. Have you had -- you've heard the
16 terms of the settlement and you've been part of the process
17 for the last several hours that we've been here, is that
18 correct?

19 MS. SIMMONS: Yes.

20 THE COURT: And have you had adequate time now to
21 consult with your counsel as to the negotiated settlement that
22 we've just described on the record?

23 MS. SIMMONS: Yes.

24 THE COURT: And you agree to the terms of the
25 settlement on behalf of the estate and the family?

1 MS. SIMMONS: Yes.

2 THE COURT: Okay. Are there any questions you need
3 to ask me about any of this?

4 MS. SIMMONS: No.

5 THE COURT: And I have to ask you this question.
6 It's sort of an odd question, but it's to make sure that
7 you're thinking clearly. In the last 24 hours, have you had
8 any kind of medication or pills or alcohol, even that might
9 affect your ability to think clearly right now?

10 MS. SIMMONS: No.

11 THE COURT: Okay. And do you need any more time
12 than what we've already had to consider whether or not this is
13 an appropriate settlement for the estate?

14 MS. SIMMONS: No.

15 THE COURT: Okay. And you fully understand the
16 terms?

17 MS. SIMMONS: Yes.

18 THE COURT: Okay.

19 MS. ZWILLING: Your Honor, there is one thing that I
20 think I would like to add to the terms of the agreement. And
21 that is that the plaintiff agrees to take any steps necessary
22 with the Surrogate's Court, to effectuate the settlement.

23 THE COURT: Is there anything that has to be done
24 with the Surrogate's Court?

25 MR. KLEIN: So there is and I was going to mention

1 that. So under the local rules, I believe that this Court
2 could approve the settlement and the distribution of the
3 proceeds to the estate can be done -- would be done in the
4 Surrogate's Court, or the approval could be done in the
5 Surrogate's Court as well as the distribution to the estate.
6 I think what I've done in other cases and what I'd do here is,
7 I would speak with the County about whether they would either
8 like to do this before Judge Donnelly or consent to Your
9 Honor. Given your familiarity with the proceedings, it might
10 make sense for the parties to consent but we could discuss
11 that and we would file what's typically an unopposed
12 compromise order --

13 THE COURT: Okay.

14 MR. KLEIN: -- it's set forth in the local rules
15 that if it -- as you would do under state law, for the court
16 to approve the settlement and the overall amount and the fees
17 in the case.

18 THE COURT: Okay.

19 MR. KLEIN: And in terms of the allocation of the
20 estate's -- to the estate, that would be done in a separate
21 proceeding in the Surrogate's Court which we agreed to do as
22 soon as practicable.

23 THE COURT: All right. Well I'll cooperate or
24 provide assistance in whatever fashion you require. If you
25 want it -- if it's Judge Donnelly or myself, whatever is

1 easier, we'll certainly participate in facilitating the
2 process.

3 MR. KLEIN: Thank you.

4 THE COURT: Okay. All right, I think that takes
5 care of this matter. And I, again, I want to thank all
6 counsel for their hard work here. And Mrs. Simmons, I wish
7 you the best.

8 MS. SIMMONS: Thank you.

9 THE COURT: Okay.

10 MS. ZWILLING: Thank you again, Your Honor.

11 THE COURT: Thank you. Have a good night, everyone.

12 MR. KLEIN: Thank you, Judge.

13 (Court adjourned)

14

15 CERTIFICATION

16 I certify that the foregoing is a correct transcript from the
17 electronic sound recording of the proceedings in the above-
18 entitled matter.

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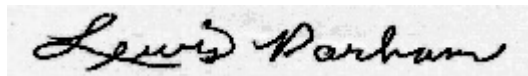
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2/26/18

Signature of Transcriber

Date